IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 25.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.726 of 2006

Sekar @ Settu @ Nondi
Settu ... Petitioner

Vs.

1.State, rep by the Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate & District
Collector, Kancheepuram District,
Kancheepuram. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of the second respondent pertaining to the order made in BDFGISV.No.15 of 2006 dated 18.03.2006 in detaining the detenu under Tamil Nadu Act 14 of 1982 as a Bootlegger and quash the same and direct the respondents to produce the detenu viz.,Sekar @ Settu @ Nondi Settu, Son of Sila @ Ammavasai, aged 48 years, who is detained at the Central Prison Vellore before this Court and set him at liberty.

For Petitioner : Mr.O.S.Thilak Pasumbadiar
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Sekar @ Settu @ Nondi Settu, who is detained as a ''Bootlegger" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 18.03.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

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3. Admittedly, this is a second petition filed by the petitioner i.e., the detenu himself. The only point urged before us is that though by orders of the learned Judicial Magistrate No.II Kancheepuram, the detenu was remanded and lodged at Sub Jail Kancheepuram, the detention order informs the detenu that if he wishes to make any written representation, he should address it to the District Magistrate and District Collector, Kancheepuram and forward through the Superintendent, Central Prison, Vellore. It is not in dispute that the same is correctly mentioned in the Tamil version also. However, according to the learned counsel, since the detenu was lodged some time in Sub Jail, Kancheepuram, he was asked to submit his representation, if any, through the Superintendent, Central Prison, Vellore, which confused him, due to which he has not made any representation. We are unable to accept the said contention for the following reasons.

4. First of all, by orders of the learned Judicial Magistrate No.II, Kancheepuram, initially he was remanded and lodged in Sub Jail Kancheepuram. Thereafter, he was put in Central Prison, Vellore. In fact the detention order as well as the grounds of detention were served to the detenu only at Central Prison, Vellore. The endorsement and his signature clearly show that he received the detention order as well as the grounds only at Central Prison, Vellore. In such circumstances, we are unable to understand as to how the detenu was confused in making representation as claimed by the learned counsel for the petitioner and we reject the said contention.

5. Further, it is not in dispute that the said point was available when the wife of the detenu has filed the earlier HCP No.341 of 2006. It is relevant to point out that in HCP No.94 of 2004 dated 28.01.2004, a Division Bench of this Court has observed that when the said ground was available at the time of filing of the earlier HCP and opportunity was given to the learned counsel to urge the same, merely because the same was not raised, the petitioner cannot be permitted to raise the same once again by way of another HCP. We are in respectful agreement with the said conclusion and in fact, several similar HCPs were dismissed following the said conclusion.

6. In the light of what is stated above, we do not find any valid ground for interference. Accordingly, the Habeas Corpus Petition fails and the same is dismissed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2. .The District Magistrate & District Collector, Kancheepuram District, Kancheepuram. .

3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

ONE CC TO MR.O.S. THILAK PASUMBADIYAR, ADVOCATE SR 44902

HCP. No.726 of 2006

TEJ(CO)

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